

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
WACO DIVISION

ANNETTE MARIE AUBREY,

Plaintiff,

v.

WARDLAW CLAIMS,

Defendant.

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CIVIL NO. W-19-CV-00643-ADA

**ORDER ADOPTING MAGISTRATE  
JUDGE'S REPORT AND RECOMMENDATION**

Before the Court is the Report and Recommendation of United States Magistrate Judge Derek T. Gilliland. ECF No. 61. The report recommends Defendant's Motion to Dismiss pursuant to Federal Rule of Civil Procedure Rule 12(b)(6) (ECF No. 27) be **GRANTED** and Plaintiff's Amended Complaint be **DISMISSED WITHOUT PREJUDICE** with leave to file a Second Amended Complaint within fourteen (14) days of any Order adopting this Report & Recommendation. The report and recommendation was filed on August 16, 2024.

A party may file specific, written objections to the proposed findings and recommendations of the magistrate judge within fourteen days after being served with a copy of the report and recommendation, thereby securing *de novo* review by the district court. 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b). As of today, neither party has filed objections.

When no objections are timely filed, a district court reviews the magistrate judge's report and recommendation for clear error. *See* Fed. R. Civ. P. 72 Advisory Committee's Note ("When no timely objection is filed, the [district] court need only satisfy itself that there is no clear error

on the face of the record in order to accept the recommendation.”). The Court has reviewed the report and recommendation and finds no clear error.

**IT IS THEREFORE ORDERED** that the Report and Recommendation of United States Magistrate Judge Gilliland (ECF No. 61) is **ADOPTED**.


**IT IS FURTHER ORDERED** that Defendant’s Motion to Dismiss (ECF No. 27) is **GRANTED** in accordance with the Report and Recommendation.

**IT IS FURTHER ORDERED** that Plaintiff’s Amended Complaint is **DISMISSED WITHOUT PREJUDICE** with leave to amend within fourteen (14) days of the date of this Order.

**IT IS FURTHER ORDERED** that the dismissal shall be changed to one with prejudice if Plaintiff does not file a Second Amended Complaint within fourteen (14) days of the date of this Order.

**IT IS FURTHER ORDERED** that all remaining requested relief is **DENIED AS MOOT**, without prejudice to refiling after Plaintiff files a Second Amended Complaint.

**SIGNED** this 6th day of September, 2024.

  
ALAN D ALBRIGHT  
UNITED STATES DISTRICT JUDGE